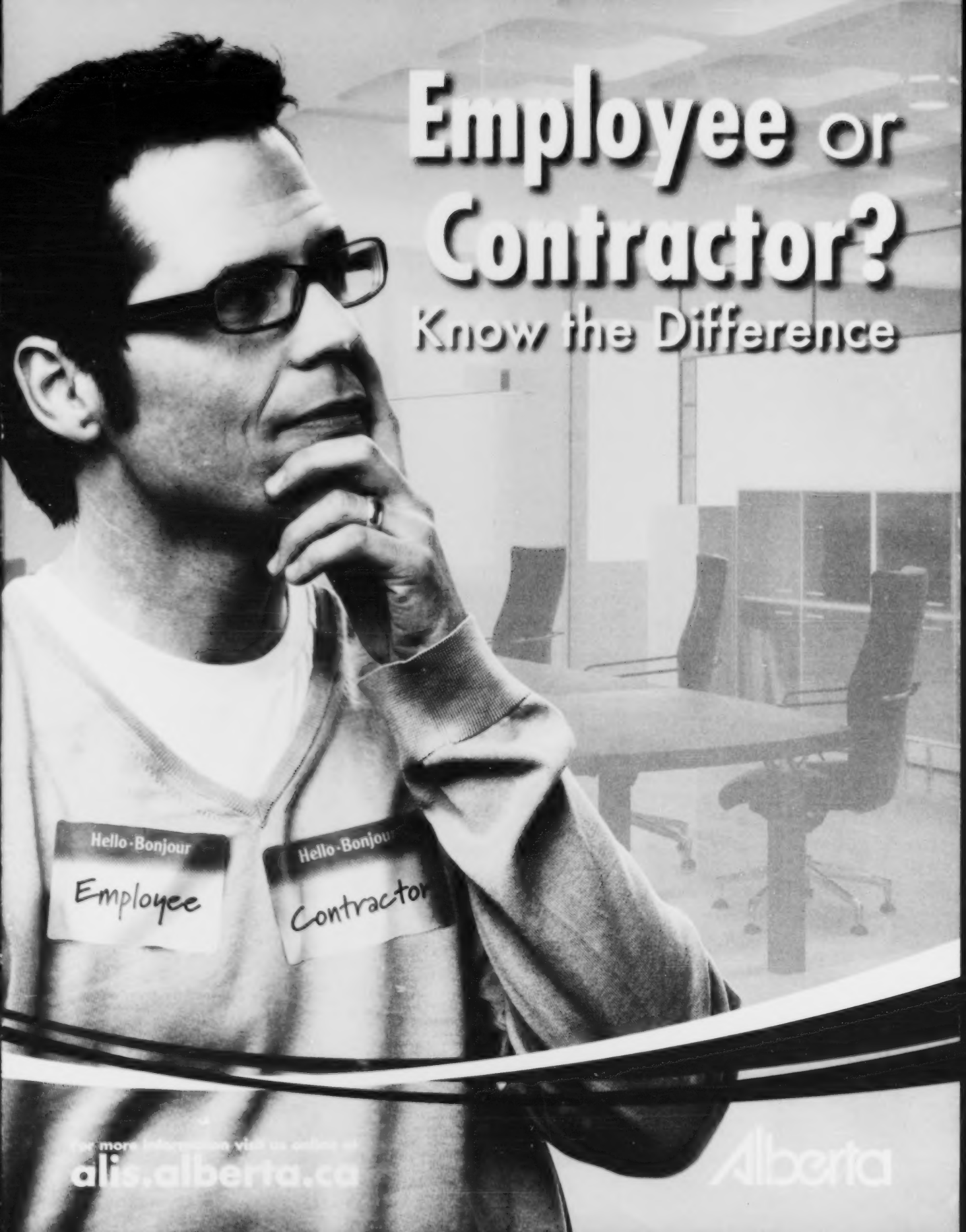
Employee or Contractor?
Know the Difference
Hello · Bonjour
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ISBN 978-0-7785-5403-5
05/2008 – 20M

Cover printed on 25% post-consumer recycled paper.
Inside text printed on 30% post-consumer recycled paper.

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Table of Contents

About This Publication 2
- Who it's for 2
- What's included 2
- What's not included 2

Ways to Get a Job Done 4
- Written contracts 4

Why the Difference Matters 5
- Who needs to know the difference 5
- How to figure out the difference 6
  - Other considerations 10

Government Organizations: How They are Involved 11
- Canada Revenue Agency 11
- Employment Standards 17
- Workplace Health and Safety 19
- Workers' Compensation Board 21
- Other agencies 24
  - Alberta Apprenticeship and Industry Training Board 24
  - Alberta Health Care Insurance Plan 25
  - Alberta Labour Relations Board 25

Contacts at a Glance 26

Other Helpful Resources 28
- Alberta Employment and Immigration 28
- The Business Link 28
- Alberta Law Line 28
- Canadian Legal Information Institute 28

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About This Publication

This publication presents general information about how contractors and employees differ and why the differences matter. It explains how being an employee or a contractor can determine what laws and regulations apply and what types of taxes, premiums and contributions must be paid. It also explains how government organizations decide who is and who is not an employee or a contractor for the purposes of:

- taxation
- employment standards
- occupational health and safety
- workers' compensation

Who it's for

The information in this publication can help anyone who is working as a contractor or thinking about starting a contracting career, working with contractors, planning to hire a contractor's services, or exploring whether someone is a contractor or an employee.

This publication does not list the pros and cons of contracting or self-employment. Detailed information on self-employment and starting a business is available in the publication *Self-Employment: Is It for Me?* (online at **alis.alberta.ca**)

What's included

Many government organizations administer work-related programs or enforce legislation that deals with work-related issues. Different parties in a work relationship have different roles, responsibilities, entitlements and liabilities, and different organizations define work relationships in different ways.

Employees, employers or contractors need to know what rights and responsibilities they have in work relationships.

This publication explains how different organizations define the parties of a work relationship and tells you where to find more information.

The publication includes a number of tables that make it easy to see at a glance how an employee is different from a contractor. It includes contact information for the various government organizations that deal with work-related issues.

What's not included

The intent of this publication is not to give any legal counsel or answers. The interpretation of employment status is a complicated legal question and independent legal advice may be necessary.

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Work arrangements can vary. Work relationships between those hiring and those hired can also vary.

Often those paying for work or services hire a person or a firm to do the work under contract. Someone who works under contract can be either a contract employee or an independent contractor:

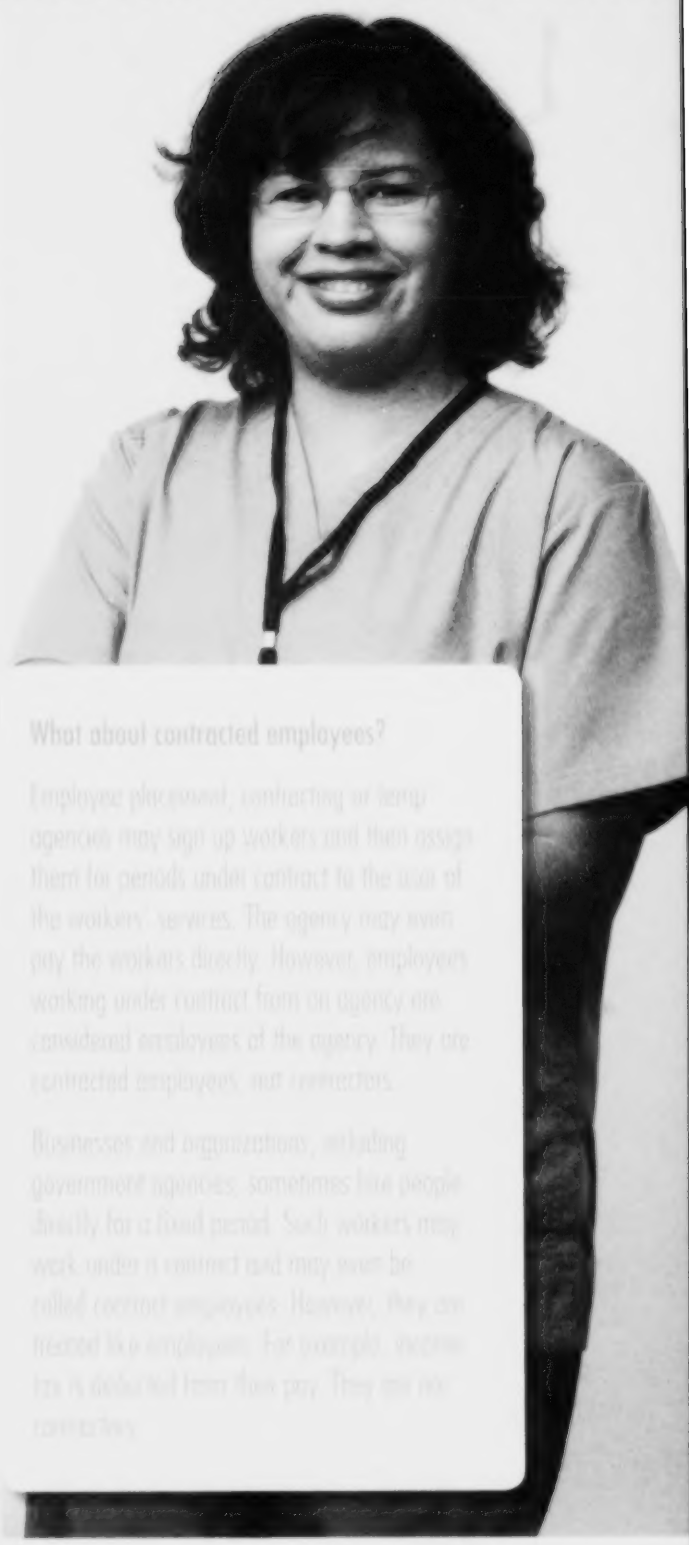
- **Employees** (or contract employees) work under an employer–employee relationship or "contract **of** service."
- **Contractors** carry out their work under an independent business–contractor relationship or "contract **for** service."

Different groups, including different government organizations, may use their own terms to describe contract-for-service workers or independent contractors.

Independent contractors are known as freelancers, consultants or simply contractors. For simplicity, this publication uses the term "contractor" to refer to all independent contractors.

Freelancing is often associated with a certain type of work—like writing, for example. Consulting may bring to mind independent professionals such as engineers or management advisers. Contracting is often associated with the construction industry. However, a contractor could supply almost any kind of work. For example, a contractor could do janitorial work, sewing, carpentry or other trades work or provide services such as environmental monitoring, hauling or courier deliveries. A contractor could provide health-related services such as private-care nursing or education-related services such as teaching or tutoring—even though health care and education are usually connected with hospitals and schools.

No matter what type of work or service they provide, what all contractors have in common is being independent.



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Written contracts

A contract can help determine the intent of the relationship between the party who is doing the work and the party who is paying for it. However, a contract alone is not conclusive in determining an individual's employment status.

Employer–employee relationships (contracts **of** service) are governed by different laws and regulations than business–contractor relationships (contracts **for** service). A written contract can help to establish whether the relationship between the party who is doing the work and the party who is paying for it is a business relationship rather than an employer–employee relationship.

Contracts typically state that work or services are being provided on a contract basis. Contracts also define the scope, time frame and cost of the work or service and outline the responsibilities of each party in the work relationship.

The responsibilities outlined in a contract may include but are not limited to the following:

- payment and invoicing
- whether any expenses are covered
- whether the contractor can hire assistants
- who directs any subcontractors
- who can terminate or suspend the contract, and under what conditions
- who holds control of copyright, patents or other rights
- who is responsible for remitting taxes, and who, if anyone, pays any other required payments or premiums such as Workers' Compensation
- who is responsible for professional and general liability or other insurance (for example, for vehicles, equipment and premises)
- who is responsible for shortcomings or defects in any goods or services provided
- who is responsible and pays for any required permits or licences
- qualifications requirements (to confirm that the contractor has the qualifications needed for the job)
- requirements for the return or disposal of information or documents
- warranty for goods or services provided

Even though a contract may include the above-listed clauses, this does not always mean that a contract-for-service relationship has been established. For details on other factors that need to be considered, see the section How to Figure Out the Difference.

Those paying for or providing contract services may want to get legal advice when preparing or before signing their contracts.

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Why the Difference Matters

Whether someone is a contractor or an employee determines:

- who is responsible for certain actions
- who is entitled to what
- who is liable if things go wrong

Depending on the nature of the working arrangement and relationship, responsibilities, entitlements and liability may rest with:

- the employee
- the contractor
- the employer
- the payer or user—that is, the person or firm that hires and pays a contractor

Most working people probably don't think much about whether they are employees, contract employees or contractors. However, definitions become important when a working relationship raises uncertainties about someone's legal entitlements and responsibilities. There may be differences in interpretation of what defines a contractor among various statutes.

The need to review or define a working relationship might arise for the following reasons:

- questions about payroll deductions, including taxes, Employment Insurance premiums and Canada Pension Plan contributions
- requests for holiday, vacation or termination pay
- workplace health and safety questions raised by injury reports or investigations
- questions raised by the Canada Revenue Agency over a tax return, audit or notice of assessment
- declined or denied Employment Insurance applications
- declined or denied requests for time off or payments for maternity, parental or compassionate care
- declined or denied Workers' Compensation claims or coverage

Who needs to know the difference

Certain government organizations may have reasons to review whether someone is an employee or a contractor. The following organizations administer programs and enforce legislation related to employment issues such as income taxes, pensions, benefits and more:

- Canada Revenue Agency
- Human Resources and Social Development Canada, which administers programs such as Employment Insurance and the Canada Pension Plan
- Alberta Employment and Immigration, which is responsible for *Employment Standards Code* and the *Occupational Health and Safety Code*
- Alberta Workers' Compensation Board

Other government organizations that deal with employment issues:

- Alberta Apprenticeship and Industry Training Board

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- Alberta Health and Wellness, which is responsible for the Alberta Health Care Insurance Plan
- the Alberta Labour Relations Board

How to figure out the difference

Contracting has less to do with the type of work than with the control of how, when and where the work is done.

Whether someone is considered an employee or a contractor depends on the nature of the work relationship between the party who provides goods or services and the party who pays. If the work relationship is a **contract of service**, an employer–employee relationship exists. If the work relationship is a **contract for service**, the party who pays has a business relationship with an independent contractor.

The key word here is relationship. The nature of the work relationship determines the eligibilities and responsibilities of each party.

Government organizations and the courts have developed some general guidelines to decide whether a work relationship is a contract **of** service or a contract **for** service. The review process that is used takes into account the terms, wording and intent documented in the contract agreement. It compares whether the actual working relationship is in line with what the people signing the agreement intended. In order to make this determination, the review examines the following factors:

- direction and control: who decides when and how the work is done?
- ownership of facilities, supplies, tools and equipment: who owns what and who is responsible for it?

- chance of profit or risk of loss: who stands to make a profit or suffer a loss as a result of the working relationship?
- integration: do the people performing a service consider themselves to be in business for themselves? Is the job or service being provided the worker's sole or primary source of income?

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While general guidelines apply, it's important to remember that different government organizations use their own specific considerations to decide if a worker is an employee or a contractor.

Table 1: Working conditions that determine if someone is an employee or a contractor.

	Employee	Contractor
Direction and Control		
Method of payment	• Receives an hourly, weekly or monthly wage or salary, or is paid on commission. • Receives a pay-related document such as a paycheque and statement of earnings.	• Submits invoices. • Receives pay as a lump sum or in installments, often on contracts received as the result of a successful project bid.
Hours of work	• Usually works specified hours that are set by the employer.	• Generally is free to choose time of work.
Benefit plans	• Receives benefits such as vacation pay, Employment Insurance and Canada Pension Plan contributions. Benefits are paid for—in full or in part—by the employer.	• May pay insurance premiums for privately held plans. • In most cases, does not participate in the Employment Insurance program. *(See NOTE 1 in Table 2 for exceptions that apply to certain workers.)*
Full-time, personal and exclusive service	• Usually devotes all working time to one employer. *(Someone with several part-time jobs with different employers is still considered an employee.)* • Personally performs the work or service and cannot hire someone else to do it.	• Typically has many potential income streams and serves a number of payers during a given period. *(On a large project, for a while, most of the contractor's time may be spent on that project.)* • May employ or subcontract others to do the work.
Training	• Receives in-house, on-the-job or outside training that is provided, paid for or reimbursed by the employer.	• Has the required training before starting the job. • Pays his or her own training costs.
Schedules and routines	• Works under the direction and control of an employer.	• May have to meet deadlines, but can set the schedule, sequence or manner in which the work is done.

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	Employee	Contractor
Right to discharge or terminate employment	• Can be discharged from work, provided *Alberta's Employment Standards Code* and other requirements are met. *(The right to fire is a form of control.)* • Can terminate his or her employment in accordance with *Alberta's Employment Standards Code* requirements.	• Normally, as long as he or she has complied with the requirements of the contract, cannot be discharged by the payer without compensation. • Normally, as long as the payer has complied with the requirements of the contract, cannot terminate the contract without liability. • If the contract allows for termination, the payer or the contractor can do so under the specified conditions.
Supervision and compliance with instructions	• Works under the supervision of the employer. • Generally must follow the employer's instructions on how, when and where the work is performed. • Generally must follow the employer's instructions regarding the quality or volume of work.	• Generally works without supervision to meet the requirements of the contract. • Does not receive or follow ongoing instructions on when, where and how to work. • Decides what methods will be used to achieve the final outcome.
Specific results	• May perform a variety of tasks and duties. *(The relationship with the employer continues after these tasks are duties have been completed.)*	• Supplies a product or service as required by the contract. *(Once these requirements have been met, the contractual relationship ends.)*
Ownership of Facilities, Supplies, Tools and Equipment		
Facilities and premises	• Usually uses a workspace, furniture, phone, computer and related equipment provided, maintained and paid for by the employer.	• Usually supplies (leases, rents or owns) the space, furniture, phones, computers and other equipment needed to do the work. • When possible or necessary, may work at the payer's premises. *(Working on site does not necessarily mean that the payer controls the contractor. However, supplying a desk, phone or related equipment may be a sign of payer control, particularly for contractors who do not own or have access to similar equipment on their own premises.)*

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	Employee	Contractor
Tools and equipment	• Usually uses tools, equipment and materials provided and paid for by the employer. *(Some tradespeople, including mechanics and carpenters, provide their own hand tools even when they are employees.)*	• Usually buys, rents or leases the tools, equipment, materials and supplies—including letterhead and business cards—required for the job. • Usually arranges and pays for tool and equipment maintenance and upgrades.
Chance of Profit or Risk of Loss		
Profit	• Does not necessarily earn more if work is completed more quickly than expected or if other savings occur. • May earn more through bonuses or incentive pay plans. • May earn more as length of service or experience increases.	• Stands to make more money if project work is completed more quickly than expected or if other savings occur.
Risk of loss	• Receives pay for labour or services provided. • Receives pay at an established rate that is independent of the employer's sales, profits or losses. • Is not responsible for covering bad debts: debts are the employer's responsibility.	• Stands to make less money if project work takes longer to complete, if a bid is inaccurate or if costs increase because of damage or for other reasons. • Risk having periods with less work (possibly after an unsuccessful contract bid) and therefore less income. • May have to deal with bad debts.
Integration		
Independence and self-employment	• Is not self-employed. • Is part of the employer's business and depends on one income source. *(Part-time employees with several employers are still employees.)* • The longer and more permanent the working relationship is, the more likely that someone is considered to be an employee.	• Acts on his or her own behalf. • Is in business for his or her own benefit and is not part of the payer's business. • Relies on several income sources or payers over time. • Does business with the general public. • May hold a business licence.

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Other considerations

In addition to the factors listed in Table 1, there are other considerations that may help determine whether someone is a contractor or an employee:

- **Legal status**

  While many contractors are incorporated, incorporation is not by itself proof of contractor status. Many contractors carry out their work through unincorporated sole proprietorships or partnerships that would meet the contractor definition.

- **Public image**

  Whether or not they are incorporated, contractors typically have a public image that includes business name or brand recognition and established goodwill. But having a public image does not in itself prove that someone is a contractor. Rather, in some situations, image and public perception could suggest that someone is an employee rather than a contractor. For example, if a worker wears a company uniform like that worn by regular employees, this could raise questions about the worker's claim of being a contractor.

- **Management and investment**

  The fact that someone has managed and made a significant investment in a business may help confirm that the individual is a contractor.

- **Written contracts**

  Even though a written contract may state that someone is a contractor, this is not necessarily the case. However, having a written, dated, signed-by-both-parties contract that outlines terms and conditions related to the work or services to be provided may strengthen the claim that someone is a contractor.

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Government Organizations: How They are Involved

The next section discusses how a contractor, an employer, an employee or a worker are defined by:

- Canada Revenue Agency
- Employment Standards, Alberta Employment and Immigration
- Workplace Health and Safety, Alberta Employment and Immigration
- Workers' Compensation Board
- other agencies—namely, the Alberta Apprenticeship and Industry Training Board, the Alberta Health Care Insurance Plan and the Alberta Labour Relations Board

In the following sections, not all the listed requirements apply in every case and every situation.

If you need more information to decide if someone is a contractor or an employee, it may be helpful to get advice directly from the appropriate organization.

Canada Revenue Agency

Contractors, employers and employees deal with the Canada Revenue Agency (CRA) in relation to the following matters:

- personal or corporate income tax, including T4 forms that record remuneration and deductions
- Employment Insurance
- Canada Pension Plan
- Goods and Services Tax

In dealing with these matters, the CRA often needs to establish if an individual is an employee or a contractor.

As shown in Table 2, employers make the necessary deductions and process the necessary paperwork on behalf of their employees. Contractors are responsible for their own deductions, payments and paperwork.

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Table 2: **Canada Revenue Agency requirements for employers and contractors.**

CRA Role	Employer Role	Contractor Role
Collects personal income tax deductions.	Deducts personal federal and provincial income tax from the employment earnings of employees and submits the deducted tax to the CRA.	Submits personal federal and provincial tax deductions to the CRA. • Unincorporated contractors deduct personal federal and provincial income tax from their employment earnings • Incorporated contractors deduct personal federal and provincial income tax from the employment earnings of their employees
Collects corporate income tax deductions.	If incorporated: • submits a federal corporate income tax return to the CRA • submits an annual provincial income tax return to the Tax and Revenue Administration branch of Alberta Finance	Unincorporated contractors: • declare their business earnings as part of their personal income. They do not pay federal or provincial corporate taxes Incorporated contractors: • submit a federal corporate income tax return to the CRA • submit an annual provincial income tax return to the Tax and Revenue Administration branch of Alberta Finance
Collects Employment Insurance (EI) premiums.	Deducts and submits both employer and employee premium portions to the CRA.	**Contractors are not eligible for Employment Insurance.** NOTE 1: Although the following workers meet the requirements as contractors or self-employment they are considered insurable for Employment Insurance: • barbers, hairdressers and manicurists • individuals who provide services in a barbershop or hairdressing business • taxi drivers • drivers of passenger-carrying vehicles For these workers, the business owner or proprietor must pay both the employer and the employee portions of the EI premium.

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CRA Role	Employer Role	Contractor Role
Collects Canada Pension Plan (CPP) contributions.	Deducts and submits both the employee's and the employer's share of CPP contributions to the CRA.	Submits both the employee's and the employer's share of CPP contributions to the CRA. NOTE 2: The employer portion is a business expense and is not deducted from wages or salary.
Collects Goods and Services Tax (GST) and related documents.	GST does not apply to employee salaries or benefits.	Whether or not they are incorporated, contractors with gross annual revenues of $30,000 or more must register to collect, charge and remit GST to the CRA.
Collects T4 (Statement of Remuneration Paid) and T4 Summary (Summary of Remuneration Paid) forms.	Issues each employee a T4 listing the CPP, EI and tax contributions made to the CRA on the employee's behalf. Sends the CRA a copy of each employee's T4 and T4 Summary forms.	Incorporated contractors: • issues himself or herself a T4 listing CPP contributions and tax deductions submitted to the CRA • sends the CRA a copy of the T4 and T4 Summary (Summary of Remuneration Paid) forms

Just because businesses arrange or choose to pay EI premiums for their workers, does not necessarily make the workers eligible for EI benefits nor the business eligible to participate in EI.

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Table 3 **illustrates why it is important to correctly identify someone as a contractor or an employee.**

CRA Areas Impacted	When Contractors Find Out They Are Employees
Federal or Provincial Income Tax	Payer may not have deducted taxes or issued a T4 Form. If so, employee will have to pay back taxes owing.
Canada Pension Plan	Employer should have paid CRA the employer portion of CPP and deducted and submitted the employee portion to CRA.
Employment Insurance	Employer should have paid CRA the employer portion of EI, and deducted and submitted the employee portion. Employer must pay **both** in this situation and cannot go after the employee for premiums. Previously not eligible to accumulate insurable earnings for EI, maternity, parental or compassionate care benefits now would be eligible.
Goods and Services Tax (GST)	If registered, they are no longer required to collect GST.

Where taxes or payments are evaded or not paid, the CRA requires payment of the full amount owing, plus interest, as well as any penalties that CRA may impose. Where there has been gross negligence, CRA can assess penalties based on a percentage of the unpaid tax or improperly claimed benefit. In even more severe cases, courts can impose higher penalties and jail terms.

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Frequently Asked Questions

Q Must a contractor contribute to the Canada Pension Plan?

A Yes, a contractor must pay both the employer and employee portions of the Canada Pension Plan contribution.

Q Does an incorporated contractor receive a T4?

A Yes, an incorporated contractor prepares and gives himself or herself a T4 form that states earnings, tax deductions and Canada Pension Plan contributions.

The names and details in the following scenarios are fictional but the cases show the types of issues that employers, employees and contractors might deal with.

Ranjit and Ranj-IT Inc.

Ranjit, a trained computer technician, was surprised when Canada Revenue Agency contacted him after he had filed a corporate income tax return on behalf of his company Ranj-IT Inc. For a number of years, Ranjit had worked as an IT (information technology) tech for a medium-sized trucking firm. However, he decided working as a contractor would give him more flexibility and offer other advantages, including not having to pay EI premiums on his earnings. His former employer agreed to hire Ranjit on contract through his company. While Ranjit took on some small assignments for a few other clients, close to 90 per cent of his time was spent on the contract work for the trucking company. The trucking firm also agreed it would be more convenient for Ranjit

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to keep his old office, as well as his old direct phone line and Internet connection at the trucking firm's main office. The trucking firm benefited by not having to pay contributions, such as to EI and CPP, or having to keep track of taxes, deductions and other contributions. Like Ranjit, the trucking company received a notice from CRA that raised the question whether with their continuing close links, Ranjit and his former employer really had a contractor relationship. It was a trigger for Ranjit and the trucking company to clarify their working relationship.

Alia and We Design Inc.

Alia is a graphic designer who has worked at We Design Inc. for five years. At first, she worked full time in the company's office. But with a toddler son, Alia found it more convenient to work from home.

For the past two years, Alia has done her graphic design work from her home office. We Design is the only company she works for. The company forwards her assignments, and when these are done, Alia submits them by email from her home computer. She works 37 hours a week, but We Design lets her decide when she puts in this time. The company deposits her monthly pay into her bank account after making income tax, CPP and EI deductions and contributions.

When Alia filed her personal income tax return, she claimed the costs of her home office as a business expense. When the CRA inquired about this deduction, Alia claimed she was a contractor who set her own hours of work. However, when she reviewed the CRA's criteria for deciding whether someone is a contractor, Alia agreed she was an employee, not a contractor.

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For more information

Canada Revenue Agency

Phone (toll-free)

1-800-959-5525 (for businesses and self-employed individuals)

1-800-959-8281 (for individuals)

1-800-267-6999 (automated tax tips for businesses and individuals)

Website

www.cra-arc.gc.ca

Click the "A to Z index" to search for a specific topic or use the "Search the site" feature.

Employment Standards

Alberta Employment and Immigration

Employment Standards deals with questions, requests for information and complaints related to Alberta's *Employment Standards Code*. Sometimes interpreting these pieces of legislation can raise questions about the distinction between contractors and employers. For example, who is entitled to certain payments? Or to time off work?

Most employees and employers in Alberta are covered by the *Code*. However, the *Code* also applies to contractors if they are employers and will protect employees that they hire.

Under the *Code*, an employer is "a person who employs an employee"; the definition includes former employers. An employee is defined as "an individual employed to do work who receives or is entitled to wages"; the definition includes former employees.

Employers and employees in federally regulated industries such as broadcasting, banking and air transport are protected by the *Canada Labour Code*.

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Table 4 **shows why it is important to correctly identify contractors or employees according to Employment Standards.**

Employment Standards Entitlements	When Contractors Find Out They Are Employees
Payments • General holiday pay • Overtime pay • Minimum wage • Termination pay • Vacation pay	Employee now has certain entitlements—including overtime, general holiday, vacation and termination pay—that were not available when the employee was considered a contractor. Employer might be required by an order under Employment Standards to make back payments to the employee.
Time off: • General holidays • Maternity and parental leave • Vacation	Employee could claim entitlement to payment in lieu of time off not received while considered a contractor.

If the parties cannot reach an agreement on whether a person is an employee or contractor, an Employment Standards officer may make the decision for them.

Frequently Asked Questions

Q Does the *Employment Standards Code* entitle a contractor to be paid vacation or termination pay?

A No, the *Code* entitles employees to vacation or termination pay, but not a contractor. Contractors should review the terms of their contracts to determine if they're entitled to paid vacation or to be compensated for being discharged.

Q Does the *Code* limit how many hours a contract can work each week?

A No, the *Code* does not limit a contractor's work hours.

Q Is there a legal requirement to pay contractors more for working on a general holiday?

A The *Code* does not require contractors to be paid more for working on a general holiday. However, contractors should review their terms of contract to determine whether they are entitled to be paid more for working general holidays.

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The names and details in this scenario are fictional but illustrate issues that could affect contractors or those using their services.

Tariq and TM Trenching Ltd.

Tariq runs his own backhoe service, TM Trenching Ltd. He works for several different customers, owns his own backhoe equipment and has his own workshop, which also serves as his office.

Tariq recently signed a contract with a local municipality. The contract called for Tariq to dig drainage ditches near the town's baseball diamonds and to finish the work within three months for a fixed price. After Tariq started the job, his contract was cancelled.

Because Tariq is a contractor, he has the right to obtain legal counsel and seek compensation from the municipality. However, since he is not an employee, the Employment Standards entitlements are not available to him.

For more information

Employment Standards Contact Centre
Alberta Employment and Immigration

Phone:
780-427-3731 (in Edmonton)

Toll-free in Alberta:
1-877-427-3731

TTY:
780-427-9999 (in Edmonton)
1-800-232-7215 (toll-free for other Alberta locations)

Website:
employment.alberta.ca/es

Workplace Health and Safety

Alberta Employment and Immigration

Workplace Health and Safety deals with questions that arise from Alberta's *Occupational Health and Safety Act* and *Occupational Health and Safety Code*. These pieces of legislation require that employers ensure healthy and safe work sites and that workers cooperate with their employers' efforts.

The *Occupational Health and Safety Code* does not define employee.

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Table 5 **describes how employer, worker and occupation are defined in the *Occupational Health and Safety Code*.**

Employer	Worker	Occupation
◦ A person who is self-employed in an occupation ◦ A person who employs one or more workers ◦ A person designated by an employer as the employer's representative ◦ A director or officer of a corporation who oversees the occupational health and safety of the workers employed by the corporation	A person engaged in an occupation.	Every occupation, employment, business, calling or pursuit over which Alberta legislation has jurisdiction.

Most Alberta workers are covered by Alberta's *OHS Code* but it does not cover federally regulated industries. Also exempt under the *Code* are farmers and agriculture workers, as well as domestic workers, such as nannies and housekeepers.

Besides employer, worker and occupation, another important definition is work site, which Alberta's *OHS Act* defines as "a location where a worker is likely to be engaged in any occupation and includes any vehicle or mobile equipment used by a worker in an occupation."

Under the *Occupational Health and Safety Code*, one person, particularly a contractor, can be a worker and an employer at the same time.

Regardless if they are paid or unpaid workers, the employer is also responsible for safeguarding the health and safety of persons who enter the work site, even if they are not workers.

Frequently Asked Questions

Q Do contractors have to comply with the requirements of Alberta's *Occupational Health and Safety Code*?

A Yes, contractors must comply with Alberta's *Occupational Health and Safety Code* requirements.

Q Under Alberta's *Occupational Health and Safety Code*, can contractors be considered workers and employers at the same time?

A Yes, contractors working under contract for a payer can be considered workers while at the same time being employers who hire themselves or others to do the work.

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For more information

Workplace Health and Safety Contact Centre
Alberta Employment and Immigration

Phone:
780-415-8690 (in Edmonton)

Toll-free in Alberta:
1-866-415-8690

TTY:
780-427-9999 (in Edmonton)
1-800-232-7215 (toll-free for other Alberta locations)

Website:
employment.alberta.ca/whs

Workers' Compensation Board

The Alberta Workers' Compensation Board (WCB) provides no-fault liability and disability insurance for work-related injuries and illnesses.

Contractors could find themselves dealing with Workers' Compensation both as employers and as workers at the same time.

Employers in many Alberta industries must by law maintain a Workers' Compensation account. However, individuals and employers in certain industries and activities are exempt from WCB coverage. A complete list of exempted industries is available on the WCB website **www.wcb.ab.ca**.

Even employers in industries not required to maintain WCB coverage can choose to pay premiums and provide coverage for their workers.

It is important for Workers' Compensation to know who is an employer and who is a worker because employers pay the entire WCB premiums that protect workers should they have a work-related injury or illness.

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WCB Definitions

Employer	Worker	Neither Employer nor Worker
An individual, firm, association, body or corporation that has, or is considered by WCB to have, one or more workers in its service.	A person who enters into or works under a contract of service or apprenticeship, written or oral, expressed or implied, whether by way of manual labour or otherwise. NOTE 3: As in the case of Workplace Health and Safety, WCB generally speaks of workers rather than employees.	Directors of a company, unless they purchase personal coverage.

Proper standing is also important since WCB can make medical and disability payments if a contractor is injured or becomes ill while working for someone else.

In addition, under Alberta's *Workers' Compensation Act*, workers give up their right to sue for workplace injuries or illnesses. WCB insurance coverage can protect a contractor as an employer or worker from lawsuits when workers get sick from work or have a work-related injury.

Organizations registered with Alberta's Corporate Registry as societies, associations or corporations have an automatic right to a Workers' Compensation account. Unincorporated sole proprietorships or partnerships can also apply for an employer's account. In that case, WCB will consider whether:

- workers are hired
- the business is independent and established, by considering whether it has its own equipment, licences and business records
- the business involves substantial investment

Business proprietors who do not employ any other workers and who do not have a WCB account would be covered by the WCB account of the principal who is paying them for the work or service.

Employers and contractors can request an immediate clearance certificate online to find out if someone is properly registered with WCB.

The following key words also are used in connection with Workers' Compensation.

Principal—A principal is a business entity or person who hires a contractor or subcontractor to perform work or services.

Contractor—A contractor is a person who contracts to do work for another. A contractor contracts directly with the principal.

Proprietor—A proprietor is an individual who owns and operates a business where the general business activity usually involves performing work for more than one person at a time and where the individual does not employ workers.

Directors—The directors of a corporation are persons typically appointed by the shareholders to manage the business and affairs of the corporation. Their names are normally recorded both in the corporation's minute book and with Alberta's Corporate Registry.

Personal coverage—A company director is not required to have Workers' Compensation coverage and is not covered unless he or she chooses to have personal coverage. Such personal coverage is an option for directors who own their company and also perform work for that company. This is a fairly typical situation for a contractor.

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A No, the employer pays the entire WCB premium.

A Yes, it is possible to check by using the Workers' Compensation Board Clearance Certificate system. The system can be accessed by phone or online through the WCB website.

The names and details in this scenario are fictional but illustrate how Workers' Compensation issues affect contractors or those using their services.

Colleen offers writing and editing services through her incorporated company, Oilwrites Ltd. Her specialty is editing safety manuals for oil and gas companies, for whom she works under contract for services. This means her principals do not pay WCB premiums on her behalf.

Colleen is a majority shareholder and director of Oilwrites. Her husband, Richard, is a minority shareholder. He is also a director of the company but does not perform any work for Oilwrites. When working through Oilwrites, Colleen is both an employer and a worker; Richard is neither.

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Since the Workers' Compensation Board lists "writing services" as an exempt activity, Oilwrites is not required to maintain a WCB account or pay WCB premiums. Furthermore, since Colleen is a director of the company, she is not required to obtain WCB coverage.

However, WCB offers directors the option of taking out personal coverage. Since Colleen sometimes visits oil and gas production sites as part of her work, she has decided to obtain personal WCB coverage as a security measure.

For more information

Workers' Compensation Board

780-498-3999 (in Edmonton)

1-866-922-9221

780-498-7895

www.wcb.ab.ca
Click on "Workers" or "Employers"

Other agencies

Alberta Apprenticeship and Industry Training Board

Certification is compulsory for many trades, and certification often requires an apprenticeship. Apprentices must be the employees of the individuals who are supervising them. They cannot be contractors.

For more information

Check the website or call the Career Information Hotline 1-800-661-3753 tollfree or 780-422-4266 in Edmonton for the Alberta Apprenticeship and Industry Training Board office nearest you. *(There are 12 offices across the province.)*

780-427-9999 (in Edmonton)
1-800-232-7215 (toll-free for other Alberta locations)

tradesecrets.gov.ab.ca

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Alberta Health Care Insurance Plan

Alberta's *Health Insurance Premiums Act* requires that any group of five or more eligible employees or workers must form an employer group and submit Alberta health insurance premiums under a group plan. A business owner or employer—who could be a contractor—is considered an employee for the purpose of establishing a group plan. Additional details for employer groups are outlined in a Group Administrator's Handbook, which is located in the website listed below.

For more information

For employees:

Phone:

780-427-1432 (in Edmonton)

Toll-free in Alberta:

310-0000, followed by 780-427-1432

TTY:

780-427-9999 (in Edmonton)

1-800-232-7215 (toll-free for other Alberta locations; this is not a voice line)

Website:

health.alberta.ca
Click on "Health Care Insurance Plan."

For employer groups with five or more employees:

Phone:

780-422-1212

Toll-free in Alberta:

1-800-272-8864

TTY:

780-427-9999 (in Edmonton)

1-800-232-7215 (toll-free for other Alberta locations; this is not a voice line)

Alberta Labour Relations Board

The Alberta Labour Relations Board administers the *Labour Relations Code*, which includes rules on forming and joining unions. The board makes determinations on whether an individual is an employee or a contractor. Employees are entitled to join unions and to take part in certification votes; contractors are not.

For more information

Phone:

780-427-8547 (in Edmonton)

Toll-free in Alberta:

310-0000 followed by 789-427-8547

Website:

alrb.gov.ab.ca

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Contacts at a Glance

Table 6 contains the key organizations that need to distinguish between employers, employees and contractors. For specific questions and answers, contact these agencies directly.

Table 6

Agency	Contact	Information Available
Canada Revenue Agency	Phone (toll-free): 1-800-959-5525 (for businesses and self-employed individuals) 1-800-959-8281 (for individuals) 1-800-267-6999 (automated tax tips for businesses and individuals) *For more phone listings, go to the CRA website. Click "Contact us" and then "Telephone numbers for enquiries."* Website: **www.cra-arc.gc.ca** *Click the "A to Z index" to search for a specific topic or use the "Search the site" feature*	• personal income tax • corporate income tax • Employment Insurance • self-employed workers or contractors eligible for Employment insurance • Employee or Self-Employed? booklet • Canada Pension Plan • Goods and Services Tax • T4 forms
Employment Standards Contact Centre *(Alberta Employment and Immigration)*	Phone: 780-427-3731 (in Edmonton) Toll-free in Alberta: 1-877-427-3731 TTY: 780-427-9999 (in Edmonton) 1-800-232-7215 (toll-free for other Alberta locations) Website: **employment.alberta.ca/es**	• exempted industries and occupations • payment of wages • deductions from earnings • general holidays and general holiday pay • overtime and overtime pay • termination and termination pay • vacations and vacation pay • hours of work and rest • maternity and parental leave
Workplace Health and Safety Contact Centre *(Alberta Employment and Immigration)*	Phone: 780-415-8690 (in Edmonton) Toll-free in Alberta: 1-866-415-8690 TTY: 780-427-9999 (in Edmonton) 1-800-232-7215 (toll-free for other Alberta locations) Website: **employment.alberta.ca/whs**	• exempted industries and occupations • refusing unsafe work • assessing and controlling workplace hazards • informing workers of workplace dangers • setting up and using safe work practices • monitoring exposure to controlled products • reporting serious workplace injuries and fatalities • emergency response and preparedness

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Agency	Contact	Information Available
Workers' Compensation Board	Phone: 780-498-3999 (in Edmonton) Toll-free in Alberta: 1-866-922-9221 TTY: 780-498-7895 Website: **www.wcb.ab.ca** *Click on "Workers" or "Employers"*	• exempted industries and activities • WCB records and claims information • premiums • applying for an account • clearance certificate requests • reporting injuries • disability payments
Alberta Health Care Insurance Plan *(Alberta Health and Wellness)*	Phone: 780-427-1432 (in Edmonton) Toll-free in Alberta: 310-0000, followed by 780-427-1432 Workers: 780-427-1432 (in Edmonton) 310-0000, followed by 780-427-1432 (toll-free) Employers: 780-427-1212 (in Edmonton) 1-800-272-8864 (toll-free) TTY: 780-427-9999 (in Edmonton) 1-800-232-7215 (toll-free for other Alberta locations; this is not a voice line) Website: **health.alberta.ca** *Click on "Health Care Insurance Plan"*	• employer requirements listed in the Group Administrator's Handbook
Apprenticeship and Industry Training Board	Phone: Check the website for the office nearest you. *(There are 12 offices across the province.)* TTY: 780-427-9999 (in Edmonton) 1-800-232-7215 (toll-free for other Alberta locations) Website: **tradesecrets.gov.ab.ca**	• certification and supervision requirements for apprentice employees
Alberta Labour Relations Board	Phone: 780-427-8547 (in Edmonton) 403-297-4334 (in Calgary) Toll-free in Alberta: 310-0000 to contact the Edmonton or Calgary office Website: **alrb.gov.ab.ca**	• labour relations issues for employers and employees • forming, joining, changing or removing unions • strikes and lockouts • unfair labour practices • union and membership dues • collective barganing

Other Helpful Resources

Alberta Employment and Immigration

Alberta Employment and Immigration provides programs and services to support workplaces that are safe, healthy, fair and stable for employees and employers alike. The department also provides career and business information to Albertans along with financial and health benefits, child support services and employment training support to Albertans in need.

For general information about the labour market, Alberta's employment standards, workplace health and safety and other workplace topics, visit **employment.alberta.ca**.

For free government publications on workplace, labour market and career topics:

- order or download a copy from the Alberta Learning Information Service (ALIS) website at **alis.alberta.ca/careershop**
- Call the Alberta Career Information Hotline at 1-800-661-3753 (toll-free in Alberta) or 780-422-5283 (in Edmonton), Monday to Friday from 8:15 a.m. to 4:30 p.m.
- Visit an Alberta Employment and Immigration office. Check **employment.alberta.ca/offices** for office locations.

For tip sheets and articles on a wide range of workplace-related topics, visit the ALIS website at **alis.alberta.ca/tips**. Search alphabetically or by audience, keyword or topic.

The Business Link

Business Link centres in Edmonton and Calgary provide a host of services to entrepreneurs and operators of small and medium-sized businesses.

Phone

780-422-7722 (in Edmonton)

403-221-7800 (in Calgary)

1-800-272-9675 (toll-free, to connect to Community Business Services Centres in other parts of the province)

Website

www.canadabusiness.ca/alberta

Alberta Law Line

The Alberta Law Line provides free legal information, advice and referrals to Alberta callers.

Phone

780-644-7777 (in Edmonton)

1-866-845-3425 (toll-free in Alberta)

Website

www.lawline.legalaid.ab.ca

Canadian Legal Information Institute

The Canadian Legal Information Institute provides the public with free access to legal decisions within the Canadian jurisdiction. Access is available online at www.canlii.org. When searching the database for cases and decisions use key words in their search such as "independent contractor".

Website **www.canlii.org**

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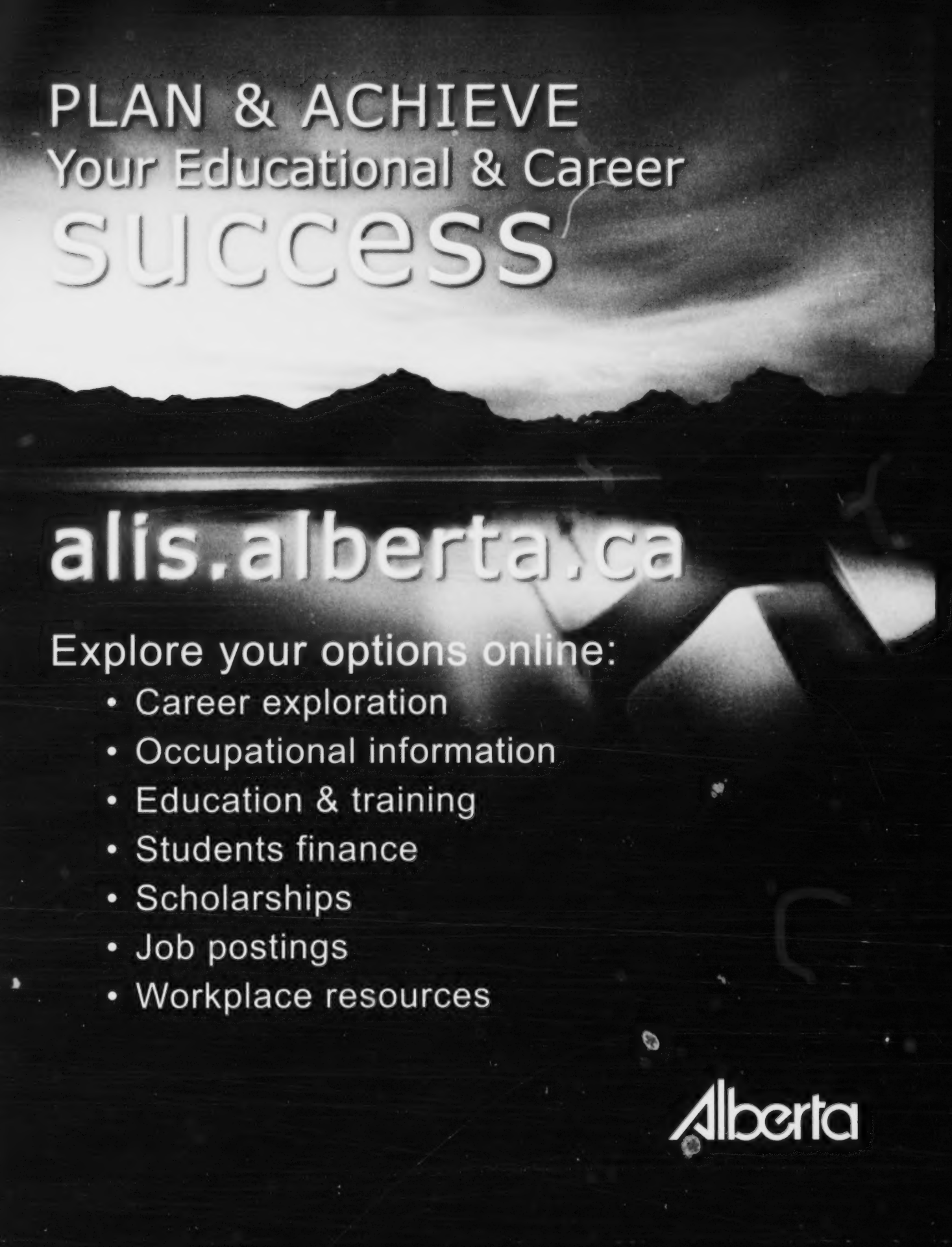
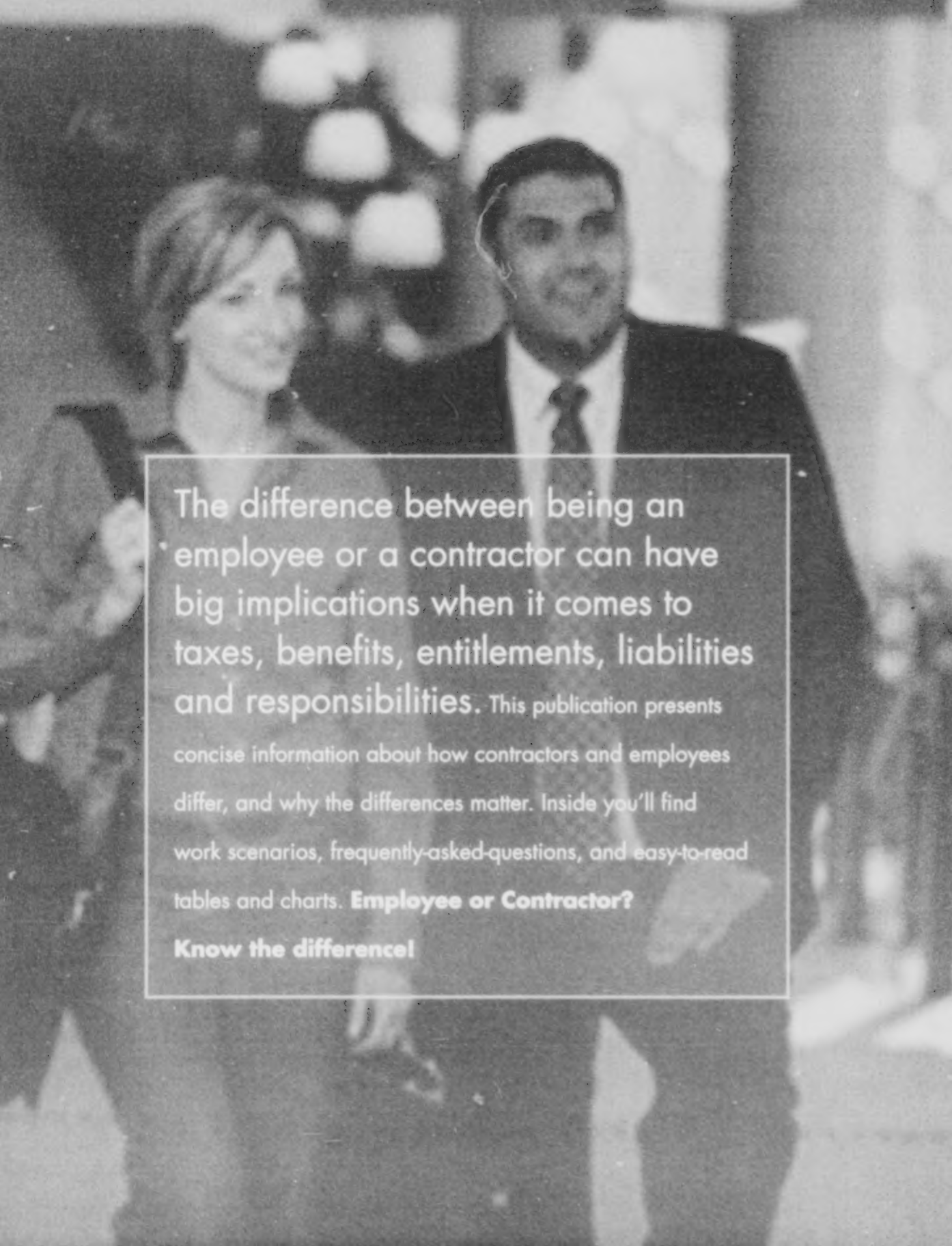

PLAN & ACHIEVE
Your Educational & Career
success
alis.alberta.ca
Explore your options online:
• Career exploration
• Occupational information
• Education & training
• Students finance
• Scholarships
• Job postings
• Workplace resources
Alberta



The difference between being an employee or a contractor can have big implications when it comes to taxes, benefits, entitlements, liabilities and responsibilities. This publication presents concise information about how contractors and employees differ, and why the differences matter. Inside you'll find work scenarios, frequently-asked-questions, and easy-to-read tables and charts. **Employee or Contractor? Know the difference!**